

**REMARKS**

Claims 30-34, 36-38, 40, 42-49, 94, 95, 97-102, 120, 121, 123-126 and 128 are pending in this application. By this Amendment, claim 35 is canceled without prejudice to, or disclaimer of, the subject matter recited therein. No new matter is added. Applicant respectfully requests withdrawal of the rejection.

**I. Personal Interview**

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Kreutzer and his supervisory Examiner in the December 21 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

**II. Rejections Under §103(a)****A. Rejection Over Schuster**

The Office Action rejects claims 30, 31, 35-38, 49, 94, and 120 under 35 U.S.C. §103(a) as having been obvious over U.S. Patent No. 6,191,880 to Schuster. Claim 35 is canceled. The rejection of claims 30, 31, 36-38, 49, 94 and 120 is respectfully traversed.

As agreed in the December 21 interview, Schuster fails to disclose and would not have rendered obvious "the birefringent element is located at or near a position optically conjugate with the surface to be illuminated, in an optical path of the illumination optical system," as recited in claim 30, "a birefringent element which achieves a substantially circumferential distribution or a substantially radial distribution as a fast axis distribution in a lens aperture, and which is located at or near a position optically conjugate with the surface to be illuminated, in an optical path of the illumination optical system," as recited in claim 94, and "the birefringent element is located at or near a position optically conjugate with the predetermined pattern surface, on an optical path of the illumination optical system," as recited in claim 120. The Office Action acknowledges that Schuster does not explicitly disclose the above features. Also, as argued during the personal interview, it would not have

been obvious to a skilled artisan to locate the birefringent element (radial polarizing optical arrangement 107 or plate 420) at a position of a surface to be illuminated or a position optically conjugate with a surface (reticle 58) in view of the disclosure of Schuster. Specifically, the location of the birefringent element (plate 420) at a position of a surface to be illuminated or a position optically conjugate with a surface (reticle 58) is taught away from in the disclosure of Schuster (col. 7, lines 33-42).

For at least these reasons, claims 30, 94, and 120 are patentable over Schuster. Further, claims 31, 35-38, and 49 are patentable for at least the same reasons, as well as for the additional features recited therein. Accordingly, Applicant respectfully requests withdrawal of the rejection.

**B. Rejection Over Schuster and Omura**

The Office Action rejects claims 32-34 under 35 U.S.C. §103(a) as having been obvious over Schuster in view of U.S. Patent Application Publication No. 2004/0004771 to Omura. The rejection is respectfully traversed.

Applicants do not concede that the combination of Schuster and Omura disclose or would have rendered obvious the features recited in the dependent claims. However, it is unnecessary to separately discuss the features recited in the dependent claims given the existence of clear and distinguishing features in independent claim 30. Accordingly, Applicant respectfully requests withdrawal of the rejection.

**C. Rejection Over Schuster and Levinson**

The Office Action rejects claims 39, 40, 44, 94, 99, 121, and 125<sup>1</sup> under 35 U.S.C. §103(a) as having been obvious over Schuster, as applied to claim 30, 94 and 120, and further in view of Principles of Lithography to Levinson. The rejection is respectfully traversed.

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<sup>1</sup> Based on the previous cancelation of claim 39, the Office Action's reference to this dependent claim in this rejection appears to be a typographical error. Also, the Office Action

Applicants do not concede that the combination of Schuster and Levinson disclose or would have rendered obvious the features recited in the dependent claims. However, it is unnecessary to separately discuss the features recited in the dependent claims given the existence of clear and distinguishing features in independent claims 30, 94, and 120. Accordingly, Applicant respectfully requests withdrawal of the rejection.

**D. Rejection Over Schuster, Levinson, and Gerhard**

The Office Action rejects claims 45-48, 100, and 126 under 35 U.S.C. §103(a) as having been obvious over Schuster in view of Levinson, as applied to claims 44, 99 and 125, and further in view of U.S. Patent Application Publication No. 2002/0186462 to Gerhard. The rejection is respectfully traversed. The rejection is respectfully traversed.

Applicants do not concede that the combination of Schuster, Levinson, and Gerhard disclose or would have rendered obvious the features recited in the dependent claims. However, it is unnecessary to separately discuss the features recited in the dependent claims given the existence of clear and distinguishing features in independent claims 30, 94, and 120. Accordingly, Applicant respectfully requests withdrawal of the rejection.

**E. Rejection Over Schuster and Fukami**

The Office Action rejects claims 102 and 128 under 35 U.S.C. §103(a) as having been obvious over Schuster in view of WO 99/49504 to Fukami et al. (hereinafter "Fukami"). The rejection is respectfully traversed.

Applicants do not concede that the combination of Schuster and Fukami disclose or would have rendered obvious the features recited in the dependent claims. However, it is

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rejects claim 94 over Schuster in view of Levinson; however, page 7 of the Office Action does not disclose any additional feature disclosed in Levinson with respect to claim 94, that is not already discussed in the rejection of claim 94 in view of Schuster at pages 2-4 of the Office Action. Thus, the rejection of independent claim 94 over Schuster in view of Levinson appears to be a typographical error.

unnecessary to separately discuss the features recited in the dependent claims given the existence of clear and distinguishing features in independent claims 94 and 120.

Accordingly, Applicant respectfully requests withdrawal of the rejection.

**III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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